

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1, 2, 4, 5, 8, 10 and 11 are pending in the application. Currently, all claims stand rejected.

By the present amendment, claims 1, 2, and 5 have been amended and claim 4 has been cancelled without prejudice.

In the office action mailed July 9, 2007, claim 4 was rejected under 35 U.S.C. 112, first paragraph; claims 1, 2, 4, 5, 8, 10 and 11 were rejected under 35 U.S.C. 112, second paragraph; claims 1, 2, 5, 8, and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,094,508 to Bathrick in view of U.S. Patent No. 3,594,037 to Sherman; and claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bathrick in view of Sherman and further in view of U.S. Patent No. 928,929 to Betherum.

The foregoing rejections are traversed by the following comments.

With respect to the rejection of claim 4 based upon 35 U.S.C. 112, first paragraph, the issue is now moot in view of the cancellation of claim 4. Similarly, the rejection of claims 1, 2, 4, 5, 8, 10, and 11 under 35 U.S.C. 112, second paragraph is now moot in view of the amendment to claim 1 to delete the objected to phrase.

Claim 1 as amended herein calls for a chair with a seat that folds down about a fixed horizontal axle and which is intended, in particular, to equip halls that receive the public, such as lecture theatres and/or show halls. The chair comprises at least an underframe having an essentially longitudinal axis and to which a backrest may be fixed, the underframe comprising at least a first stationary element for taking up vertical

forces, the fixed horizontal pivot axis being fixed relative to the first stationary element and to the seat. The seat comprises a first part projecting forwards with respect to said fixed horizontal pivot axis, and a second part projecting towards said underframe. The underframe contains a gas strut having a first end pivotably fixed to said second part of said seat and a second end pivotably fixed relative to the underframe.

With respect to the rejection of claim 1 on obviousness grounds, it should be noted that Bathrick discloses a chair (10) with a seat (16) that folds down about a horizontal axis (51, 52). The chair comprises an underframe (11) having an essentially longitudinal axis defined by frame member (18, 19, 30, 31). The seat comprises a first part (54, 55, 59) projecting forwards with respect to the horizontal axis (51, 52) and a second part (50) projecting towards said underframe (11). The horizontal axis not fixed with respect to a stationary element of the underframe (11). In Bathrick, the horizontal axis (51, 52) is fixed relative to the back frame (12) which is mobile relative to the chair frame (11).

Further, in Bathrick, the strut has one end fixed to a central portion of the chair back cross member (see the figures and column 4, lines 1 to 3). However, the strut does not have one end pivotably fixed to the second part of the seat and a second end pivotably fixed relative to the underframe.

The Sherman patent describes a chair with a seat (20) that folds down about an axle or pivot point (24) and an underframe (10). The seat (20) comprises a first part projecting forwards with respect to the horizontal axle (24), and a second part projecting toward the underframe (10). The underframe (10) contains a gas strut (94) one end of which is fixed to the underframe (10) and the other end of which is fixed to the

second part of the seat (20). The horizontal axle (24) is carried by an arm (28).

A review of Sherman however shows that the axis (24) is not fixed with respect to the underframe. This can be seen by looking at FIGS. 2 - 4 and FIGS. 5 and 6 of Sherman. Thus, the mechanism according to Sherman is more complex because the axis (24) is carried by a mobile arm.

In fact, the axle (24) of Sherman cannot be fixed with respect to the underframe. Indeed, the seat (20) has extended arms (32) which terminate in rollers (34) adapted to ride within vertical guides (36) connected to mounting frame (12). This feature is incompatible with a chair having a seat that folds down about a fixed horizontal axis.

Thus, the cited and applied references do not render the invention set forth in claim 1 obvious.

Claims 2, 5, 8 and 10 are allowable for the same reasons as claim 1 as well as on their own accord.

With regard to the obviousness rejection of claim 11, the Betherum reference does not cure the aforenoted deficiencies of Bathrick and Sherman. Thus, claim 11 is allowable for the same reasons that claim 1 is allowable as well as on its own accord.

The instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

A three month extension of time request is also appended hereto along with a check in the amount of \$1,050.00 to cover the extension of time fee.

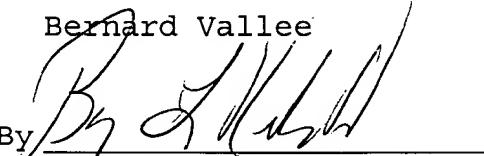
Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicant's attorney at the telephone number listed below.

Amtdt. dated Jan. 9, 2008

Reply to office action of July 9, 2007

Should the Director determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

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By 

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I, Karen M. Gill, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on January 9, 2008.

